IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No. 115 of 2004
Date of Decision: July 25, 2012

Rajbir Deswal

... Petitioner

Versus

Municipal Council, Panipat.

... Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. K.S. Malik, Advocate,
for the petitioner.

Paramjeet Singh, J. (Oral)

This revision petition has been filed by the petitioner-Rajbir Deswal against judgment dated 03.01.2004 passed by the learned Additional Sessions Judge, Panipat, thereby dismissing the appeal preferred by the petitioner against the judgment and order dated 08.05.2002 passed by the learned Chief Judicial Magistrate, Panipat vide which the petitioner has been convicted for offence punishable under Section 209 of the Haryana Municipal Act, 1973 and sentenced him to RI for six months and to pay a fine of Rs.5,000/-.

Brief facts of the case are that on 20.08.1996, Sh. Nafe Singh, Building Clerk of Municipal Council, Panipat discovered that accused was raising construction of two rooms, one kitchen, one latrine/bath-room at Arya Nagar, Assandh Road, Panipat, without obtaining the sanction of Municipal Council, Panipat. A notice under Sections 208/209 of Haryana Municipal Act, 1973 was issued to the

accused-petitioner. Accused failed to comply with the said notice. Thereafter, the respondent filed a complaint before the learned Chief Judicial Magistrate, Panipat. The learned Trial Court, after appreciating the evidence, convicted and sentenced the accused-petitioner as aforesaid vide judgment and order dated 08.05.2002. Thereafter, the accused-petitioner preferred an appeal which was dismissed by the learned Additional Sessions Judge vide judgment dated 03.01.2004. Hence, this revision petition.

I have heard learned counsel for the petitioner and perused the record.

Learned counsel for the petitioner states that he does not press this petition on merit, however, he is confining his prayer to the sentence part. Learned counsel for the petitioner further states that fine has already been deposited by the petitioner.

The only allegation against the petitioner is that without obtaining the sanction, the petitioner had raised construction in contravention of the bye-laws framed under Section 209 of the Haryana Municipal Act, 1973. This is only a technical offence and it can be cured by obtaining subsequent sanction. Learned counsel for the petitioner states that the petitioner has already suffered 16 days imprisonment and fine has already been deposited.

Learned counsel for the petitioner further states that the occurrence pertains to the year 1997 and since then a period of more than fifteen years has elapsed. The petitioner has suffered the ordeal of a protracted trial for a long period.

Learned counsel for the petitioner further states that it is not mentioned in the provisions that RI should be awarded. The

sentence awarded by the Courts below is against the provisions of the statute.

In view of the arguments advanced by learned counsel for the petitioner, which have been noted above, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars at this point of time. It is a fit case wherein sentence awarded to the petitioner can be reduced to the period already undergone. Therefore, sentence is reduced for the period already undergone in the present case. The impugned order of sentence and conviction stands affirmed with aforesaid modification.

With the observations made above, present revision petition is disposed of.

July 25, 2012 **[Paramjeet Singh]**
vkd **Judge**